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Title:

**Functions of the Federal
Power Commission**

Place:

[Washington, D.C.]

Date:

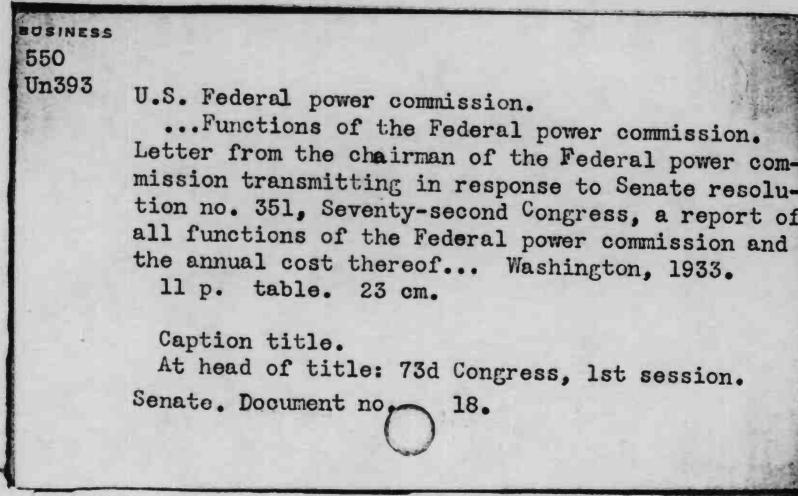
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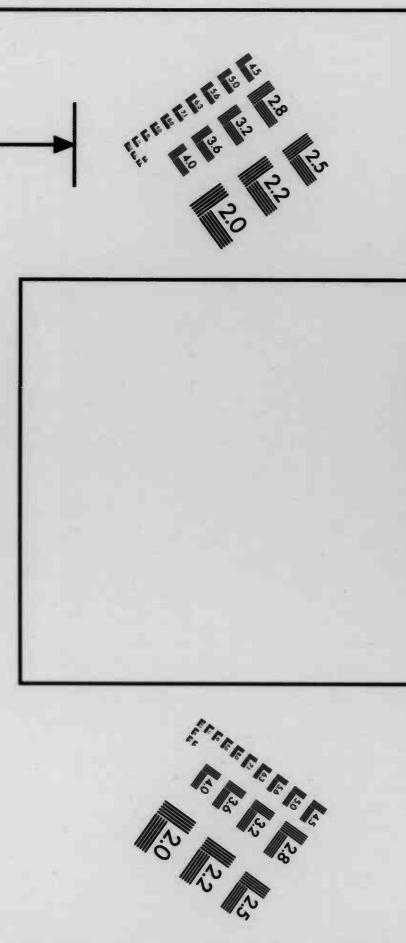
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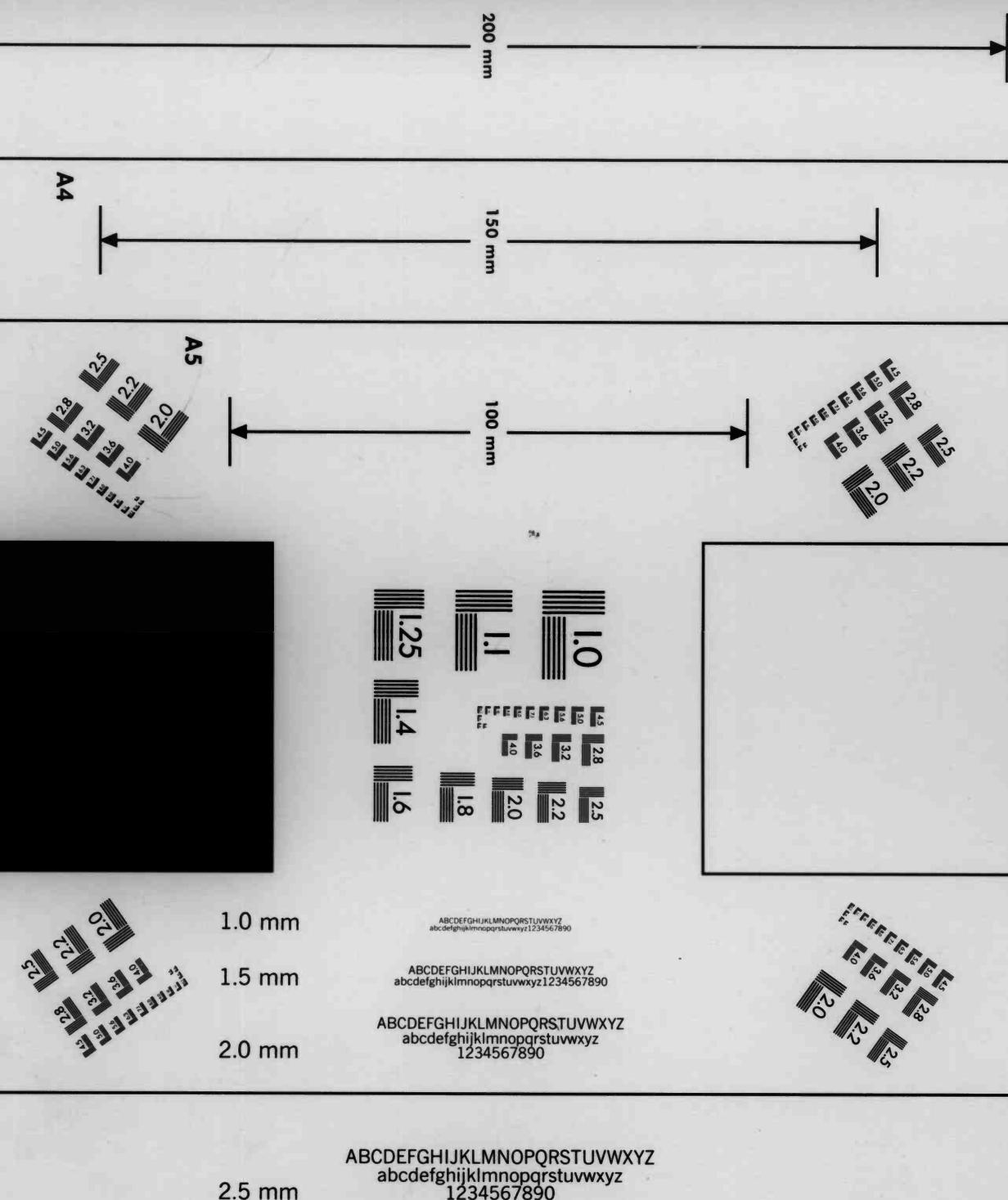


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U.S. Federal Power Commission

Functions

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FUNCTIONS OF THE FEDERAL POWER COMMISSION

LETTER FROM THE CHAIRMAN OF THE FEDERAL POWER COMMISSION TRANSMITTING IN RESPONSE TO SENATE RESOLUTION NO. 351, SEVENTY-SECOND CONGRESS, A REPORT OF ALL FUNCTIONS OF THE FEDERAL POWER COMMISSION AND THE ANNUAL COST THEREOF

MARCH 13 (calendar day, APRIL 10), 1933.—Ordered to lie on the table and to be printed

FEDERAL POWER COMMISSION,
Washington, April 6, 1933.

The PRESIDENT OF THE SENATE:

SIR: The Federal Power Commission, pursuant to Senate Resolution 351, Seventy-second Congress, submits herewith a detailed report of its functions, including appointing, disbursing, collecting, purchasing, and personnel, together with a statement of the statutory authority for the performance of each function and the annual cost thereof.

The report is submitted in three parts; part 1 being a general statement of the Commission's functions under the Federal Water Power Act, part 2 a table indicating the number of employees and the expense of carrying out the various duties imposed upon the Commission by the act, and part 3 a list of all employees receiving \$5,000 or more per annum, with a statement of the duties of each of such employees.

In preparing this report the Commission has taken cognizance of the statement made in the Senate on February 24, 1933, by Senator Burton K. Wheeler, which statement is found on page 5023 of the Congressional Record of that date. In this statement Senator Wheeler indicated the form in which it was desired to have reports submitted pursuant to Senate Resolution 351. The Commission, however, has not filed statement 1 referred to in Senator Wheeler's remarks because this statement did not seem to be applicable to this Commission in view of its small staff and the fact that all of its functions overlap to such a degree that it was believed no good purpose would be served by attempting to divide its expenditures and personnel into major classifications. Consequently, all of the information required by statements 1 and 2, as indicated in Senator Wheeler's remarks, has been embodied in one table submitted herewith as part 2 of the report.

Respectfully,

GEO. OTIS SMITH, Chairman.

STATEMENT No. 1

(Statement of functions, submitted pursuant to S.Res. 351, 72d Cong.)

The Federal Power Commission was created by the act of June 10, 1920 (vol. 41, Stat. L. 1063; U.S.C. p. 440, secs. 791 to 893), to consist of three Cabinet officers, the Secretaries of War, Interior, and Agriculture.

By the act of June 23, 1930 (ch. 572, 46 Stat. 797; Supp. V, U.S.C., title 16, sec. 792), the Commission was reorganized with a membership of five, appointed by the President. The reorganization went into effect on December 22, 1930.

There have been no amendments enlarging or modifying the general functions of the Commission since the adoption of the original Federal Water Power Act of June 10, 1920, heretofore cited, except with respect to the licensing of power projects in national parks and monuments, authority to license such projects being taken away by the act of March 3, 1921 (41 Stat. 1353; U.S.C. 442, sec. 797).

COMMISSION SELF-SUPPORTING

The Federal Power Commission is self-supporting, its receipts exceeding its disbursements by the ratio of approximately 2½ to 1.

The act provides for the collection of fees to cover the cost of administering the act and for charges for use of Government dams and public lands. The total receipts for the present fiscal year are estimated at \$590,000, and the disbursements at \$220,000, a net gain to the Government of \$370,000. Of the total amount collected in 1932, \$315,000 was collected as administrative fees, and the expenditures directly made by the Commission in the same year were \$259,000. For use of public lands (mostly waste lands with little or no agricultural or other value), \$50,000 was collected and \$204,000 was collected for the use of Government dams constructed for navigation purposes, the latter figure representing a 6-percent return on \$34,000,000.

LICENSING AUTHORITY

The Federal water power act, as amended, authorizes the Commission to grant licenses for water-power developments:

1. On navigable waters of the United States (sec. 4).
2. On streams which are not navigable waters of the United States if the Commission finds that the interests of interstate or foreign commerce would be affected (sec. 23).
3. On lands and reservations of the United States other than national parks and monuments (sec. 4).
4. At Government dams.

This jurisdiction, restricted as it may seem, covers approximately 25 percent of all water-power developments in the United States, measured by installed capacity (U.S. Geological Survey statistical data as of Jan. 1, 1931), and probably a much larger percentage of the undeveloped capacity of 80,000,000 horsepower. It has been estimated, in fact, that more than 75 percent of the undeveloped hydroelectric capacity of the country is on public lands or navigable streams.

The licensing power extends to transmission lines carrying electric energy produced by water power across lands of the United States.

REGULATION AND CONTROL

Projects licensed under the act are subject to regulation and control by the Commission as follows:

(1) If service is rendered by a licensed project in a State which has not established a public service commission to regulate and control the services to be rendered by the licensee or its customers engaged in public service, or the rates and charges of payment, or the amount or character of securities, this jurisdiction is conferred on the Federal Power Commission (sec. 19). States in which there are major licensed projects which have not established commissions with authority over rates and services are Florida, Iowa, Kentucky, Minnesota, and South Dakota. States in which there are major licensed projects, having no commissions with jurisdictions over securities of power and light companies are Florida, Idaho, Iowa, Kentucky, Minnesota, Montana, North Carolina, Pennsylvania, South Dakota, and Utah.

(2) When any power generated by a licensed project enters interstate commerce, the rates shall be reasonable, nondiscriminatory, and just, and in the absence of State authority to regulate rates, services, and securities, or the failure of interested States to agree, jurisdiction over the rates, services, and securities of such licensees, and their customers and subsidiaries engaged in public service, is conferred on the Federal Power Commission (sec. 20).

VALUATION AND RECAPTURE

The act provides that licenses shall be issued for a period not to exceed 50 years and that at the end of the license term the United States may take over the project on payment of the "actual legitimate original cost", less actual surpluses for depreciation and other purposes created out of excess earnings, not to exceed fair value, or may grant a new license to a new licensee on payment of the same amount the Government would be required to pay, or may grant a new license to the old licensee on the same terms as the original license. States and municipalities are given preference over other applicants in such taking over of projects on or after expiration of license.

Consequently, determination of the actual legitimate original cost of each project must be made by the Commission for purposes of recapture or relicensing at the end of the license period. The "actual legitimate original cost" is also, under the terms of section 20, the basis for any valuation to be used for rate-making when this authority is exercised, and is a necessary element in the approval of security issues.

It is clear from the act that it was the intention of Congress that the cost of projects be determined as promptly as possible and that thereafter, under the authority given in the act to prescribe a uniform system of accounts, the Commission should require licensees to maintain accounts in accordance with the cost so determined, so that at all times the books reflect the actual, uninflated cost of the project, such cost being thus available for use at any time by the Commission in the exercise of its regulatory powers.

INVESTIGATION OF WATER RESOURCES

The Commission is required by section 4 (a) of the act to collect and record information "concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites; to cooperate with other agencies of the National and State Governments"; and "to make public from time to time the information secured * * * and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use." The appropriations to the Commission have never been adequate for a proper exercise of its function under this grant of authority. It is an already constituted agency to formulate comprehensive plans for development of the water resources of the great stream systems of the country. This task requires studies in the coordination of uses for navigation, irrigation, domestic and municipal purposes and for development of power, and a determination of the extent to which the power use under control of the United States can be made subordinate or subservient to higher uses.

RESTORATIONS TO ENTRY

A very large amount of work devolves on the Commission by the terms of section 24 of the act in reference to restorations to entry for homestead and other purposes of land in power-site reservations. The Commission in the 1932 fiscal year acted on applications under this section involving 19,050 acres, and one of its engineers and a clerk, experienced in land titles, are required to spend a very considerable part of their time in this work and in the checking of the status of public land involved in power applications.

THE COMMISSION'S STAFF

In carrying out the duties heretofore indicated the Commission has a small staff of engineers, employed chiefly in the study and examination of reports from the field upon projects for which applications for licenses have been submitted. The field work is done principally by regional engineers of the War Department, Geological Survey, Forest Service, and the Bureau of Reclamation. There were 666 active projects at the close of the fiscal year 1932, with primary capacity of 8,517,900 horsepower, under the Commission's supervision. Forty-two new applications were filed during the year 1932, all of which required engineering examination. Six of the major projects, involving approximately 750,000 horsepower, required extended inquiry and study not only in the field but by the Commission's own staff.

The examination of accounts is carried on by the Commission's own staff of accountants, and final determination of cost is made in formal proceedings before the Commission under the direction of the solicitor and two attorneys, specializing in utility valuation proceedings. This work was in arrears when the new Commission took office in 1930. Major projects licensed up to June 30, 1931, involved an estimated cost of \$637,000,000, and of this sum only \$35,000,000 had been audited and settled, and only \$97,000,000 had been audited

in whole or in part, owing to the lack of a sufficient staff of accountants. During the calendar year 1932, under the reorganized Commission and with an increased staff of accountants, cases involving more than \$13,000,000 were settled, and the auditing of claimed cost in the amount of more than \$200,000,000 was completed. The determination of the original cost of existing projects will be one of the major tasks of the Commission for at least several years to come.

In the supervision of securities issues, rates, and services, the Commission is assisted by a single securities examiner, and its other work in this field is carried on with the aid of the legal and accounting staffs. There has been a decided increase during the past year in the calls upon the Commission for activity in this field.

Practically every matter requiring attention by the Commission involves legal questions, for opinions upon which the Commission looks to its general legal staff consisting of the general counsel and two assistants. Such matters include not only the subjects referred to in connection with other staff activities, but also the preparation of cases for court action, securing of evidence, writing of briefs, and assisting in court presentation.

Attached hereto is a detailed statement of the accounting provisions of the Federal Water Power Act.

ACCOUNTING

I. PROVISIONS OF THE ACT INVOLVING ACCOUNTING

(a) *Recapture provisions.*—The act provides (sec. 6) that licenses for water-power developments shall be issued for a period not exceeding 50 years. Section 14 provides that upon or after the expiration of any license the United States shall have the right to take over and thereafter maintain and operate the licensed project upon condition that it shall pay the "net investment" in the project "not to exceed the fair value of the property taken" plus reasonable severance damages. By section 15 the right of taking over licensed projects is extended to States, municipalities, or other new licensees, who shall pay such amount as the United States is required to do in the manner specified in section 14. By section 7 States and municipalities are given preference over other applicants in the taking over of licensed projects upon or after the expiration of the original license.

(b) *Regulation of rates, services, and securities.*—Sections 19 and 20 of the act give to the Commission, under certain conditions, authority to regulate the rates, services, and securities of its licensees engaged in furnishing service to the public, also the customers of licensees who distribute power in public service. (This is a very general statement. The provisions of sections 19 and 20 are somewhat technical.) In general, it may be said that the Commission has regulatory powers over its licensees and certain of their customers or affiliates in those States which have not created regulatory commissions or other agencies authorized to regulate the affairs of electric utilities.

(c) *Depreciation reserves.*—Section 10 (c) provides that licensees shall maintain the project works in a condition of repair adequate for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, and shall establish and maintain adequate depreciation reserves for such purposes.

(d) *Amortization reserves.*—Section 10 (d) provides that after the first 20 years of operation of a licensed project the licensee shall establish and maintain amortization reserves. Such reserves are to be created out of surplus earned "in excess of a specified reasonable rate of return upon the actual, legitimate investment of a licensee in any project or projects under license," and are to be accumulated over the period of the license and used to reduce the net investment.

(e) *Valuations.*—Section 23 of the act authorizes the issuance of licenses for projects already constructed, provides for the determination of the fair value thereof, and that the fair value when determined shall be deemed to be the net investment in the project as of the date of such determination.

2. THE ACT CONTEMPLATES REGULATION OF ACCOUNTS

(a) *References to specific provisions.*—The foregoing provisions, namely, (a) recapture, (b) regulation, (c) depreciation, and (d) amortization are the principal features requiring regulation and supervision of the accounts of licensees in the administration of the act and of licenses. Accounting is also necessary in establishing (e) valuation. That such supervision of accounting is contemplated by the act itself is manifested by several provisions thereof, among which may be cited the following:

Section 3 defines "net investment" (the amount to be paid upon recapture) to be the actual legitimate original cost of any licensed project less the credit balances in the depreciation, amortization, sinking fund, and certain other reserves "accumulated during the period of the license from earnings in excess of a fair return on such investment."

Section 3 further provides that the actual legitimate original cost shall be as defined and interpreted in the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission", and that such classification shall, in so far as applicable, be published and promulgated as a part of the rules and regulations of the Commission.

Section 4 (a) provides that—

In order to aid the Commission in determining the net investment of a licensee in any project, the licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission, in such detail as the Commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project, addition or betterment, and the price paid for water rights, rights of way, lands or interest in lands. * * * The licensee shall grant to the Commission or to its duly authorized agents, at all reasonable times, free access to such project, addition or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto.

Section 4 (f) authorizes and empowers the Commission—

To prescribe rules and regulations for the establishment of a system of accounts and for the maintenance thereof by licensees hereunder; to examine all books and accounts of such licensees at any time; to require them to submit at such time or times as the Commission may require statements and reports, including full information as to assets and liabilities, capitalization, net investment and reduction thereof, gross receipts, interest due and paid, depreciation and other reserves, cost of project, cost of maintenance and operation of the project, cost of renewals and replacement of the project works, and as to depreciation of the project works and as to production, transmission, use, and sale of power; also to require any licensee to make adequate provision for currently determining said costs and other facts. All such statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks as the Commission may require. Any person who, for the purposes of deceiving, makes or causes to be made any false

entry in the books or the accounts of such licensee, and any person who, for the purpose of deceiving, makes or causes to be made any false statement or report in response to request or order or direction from the Commission for the statements and report herein referred to shall, upon conviction, be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) *Accounting a fundamental feature of the act.*—In the discussions in Congress during the time water-power legislation was pending, emphasis was constantly being placed upon the desirability of definite records of investment in projects and upon the important relation which such records would bear both to rate regulation and to recapture. The actual legitimate cost of original projects becomes the basis for administration of all of the accounting features. Such cost, plus the cost of additions and betterments, less the cost of property retired from service, and less the balances in the several reserve accounts, becomes the "net investment", which is the maximum amount to be paid upon taking over by the United States or another licensee. The investment in any project is also the base for accounting for depreciation and retirements, for the creation of amortization reserves, for the regulation of rates, for the issuance of securities, and for determining the reasonableness of the return earned from operation. Unless the Commission knows the actual legitimate investment in any project at a given time, what the project earns from year to year, whether or not proper and adequate reserves are being established and maintained, whether the project is being adequately maintained and efficiently operated, it cannot intelligently administer the "net investment" features of the act. In the regulation of rates and securities financial, statistical, and other data are required for the licensee as a corporation as distinguished from data relating to the licensed project. In order to carry out the duties and responsibilities imposed by the act and to keep itself informed, the Commission has prescribed a system of accounts for the use of its licensees and also requires periodical and other statements and reports on prescribed forms, setting forth in more or less detail information deemed essential to the performance of its duties under the law.

THE ACCOUNTING DIVISION

(a) *General functions of Accounting Division.*—To insure that accounts are properly kept, that accounting regulations are observed, and that statements and reports are accurate and reflect the true facts requires considerable supervision, checking, and policing of the licensees' accounts and records. To accomplish that end an accounting division or section was created upon organization of the Commission in 1920. For a period of about 10 years the accounting force was wholly inadequate to perform the duties required of it, and the accounting work became badly in arrears. About 1929-31 the force was augmented, but the accounting work is still not up to date.

(b) *Nature of past, present, and future work of Accounting Division.*—Aside from the preparation of the main system of accounts for licensees, special condensed accounting regulations for the different classes of licensees, forms for annual and other reports, statements, etc., and the work incident to general supervision, the activities of the Accounting Division have so far been devoted largely to checking the accounts and records of licensees in order to determine the actual cost, under

the prescribed rules, of projects already constructed when licenses were issued or of those constructed new under license. This work of checking or auditing must be done at the licensees' offices. Upon completion of the field examination a report is prepared by the examiner in charge and submitted to the Commission, containing findings as to actual legitimate cost and designating items and amounts, if any, claimed by licensees as representing costs which the examiner questions or disapproves. As to a number of projects—mostly small, or where the licensee is a municipality—mutual agreement has been reached between the licensee and the Commission as to the fair value or cost, as the case may be, of the project without formal proceedings. In the case of most projects of relatively large capacity and involving a considerable investment, agreement on cost or fair value has not been reached, controversies have arisen, and formal proceedings have been instituted, with the view to fixing the cost or fair value by order of the Commission. In such cases hearings are usually held. Following the submission by the Accounting Division of a report on field audit, the cases are handled by the solicitor and his staff, with the cooperation and assistance of the Accounting Division, until presented to the Commission for final decision and order. The Commission itself determines the actual legitimate cost of projects constructed new under license or agrees with licensees or applicants on the fair value of projects already constructed and licensed under section 23 of the act in those cases where mutual agreement can be reached.

In addition to examinations made in the field for the purpose of establishing the investments in original projects, which work is still in progress and cannot be completed or brought up to date for several months, additions and betterments to and adjustments of the fixed-capital accounts of a few projects have also been checked in the field as well as the operating accounts. This class of work, which is necessary in establishing the net earnings and other factors for determining the "net investment", is badly in arrears. It will be taken up as soon as conditions will permit; and, in order to get such work started and organized in the near future, it will be necessary to take accountants off other important field assignments or work awaiting assignment. There will also doubtless be considerable accounting work desired by the Commission in connection with its regulation of rates and securities.

At the present time there is sufficient accounting work in arrears to keep the present accounting force busy for several years; and before it can be brought up to date more work will be accumulating, due to additions, betterments, retirements, etc.; to the operation of projects, leasing and sale of projects, changes in ownership and management.

Experience thus far has demonstrated the necessity of frequent and thorough investigations and audits of licensees' affairs and accounts to insure that accounting and other regulations are observed, and that the Commission is furnished with adequate and dependable information and data necessary for intelligently administering the net investment and other features of the act.

FUNCTIONS OF THE FEDERAL POWER COMMISSION

9

STATEMENT NO. 2
Report submitted to the President of the United States and to the Senate of the United States pursuant to S.Res. 351, Seventy-second Congress, for the fiscal year ended June 30, 1932

All expenditures by the Commission are from direct appropriations. Fees collected for administrative expenses and for use of public lands and dams, are deposited in the Treasury.

20 percent of chairman's salary carried under general administration, as the executive officer of the Commission, and approximately 15 percent of salary of administrative assistant. In 3 employees handle all matters in these several classifications, their duties overlapping so that it is impossible to make exact allocations either of time or expense. However, an estimated division of expenses, based on the approximate time devoted to the several duties, is as follows: Personnel administration, \$300; purchase and warehousing, \$100; account-
ing and auditing, \$140; disbursing and collecting, \$500.

STATEMENT No. 3

LIST OF OFFICERS AND EMPLOYEES RECEIVING COMPENSATION AT THE RATE OF \$5,000 OR MORE PER ANNUM, TOGETHER WITH STATEMENT OF THEIR DUTIES, SUBMITTED PURSUANT TO SENATE RESOLUTION 351, SEVENTY-SECOND CONGRESS

COMMISSIONERS

George Otis Smith, chairman; Frank R. McNinch, vice chairman; Claude L. Draper, commissioner (two vacancies), \$10,000 per annum. Joseph R. McCuen, secretary, \$5,200 per annum.

Issuance of licenses and permits under the Federal Water Power Act; determinations of actual legitimate cost of licensed projects; approval of securities issues; determinations on applications for restoration to entry of public lands in power reservations under section 24; action on rates and services under sections 19 and 20; public hearings, and formal action on all matters under the act.

ENGINEERING

Roger B. McWhorter, chief engineer, \$8,000 per annum.

Principal engineering adviser of the Commission; supervises engineering investigation of proposed water-power projects as applications for preliminary permit and license are received, and prepares reports to the Commission thereon, with recommendations; directs engineering work pertaining to 536 licensed projects and 34 projects under preliminary permit; supervises special investigations relating to undeveloped power resources.

Harry C. Smith, assistant chief engineer, \$6,500 per annum.

Serves as acting chief engineer in the absence of the chief engineer; investigates water-power projects, prepares reports thereon, and reviews reports made by other engineers of the Commission and also reports made by the engineers of the Departments of War, Interior, and Agriculture, cooperating with the Commission; makes special investigations of the water-power industry and its relation to other industries; and supervises the collection of engineering data for use of the accounting and legal divisions.

Edward C. Bebb, senior engineer, \$5,000 per annum.

Investigates applications for preliminary permit and license for water-power projects in various parts of the United States, especially in Utah, Wyoming, Nevada, Arizona, and New Mexico, and prepares reports thereon; checks designs of dams and other major hydraulic structures for safety; and prepares cost estimates and special studies of power resources.

Fred F. Henshaw, senior engineer, \$5,000 per annum.

Investigates applications for preliminary permit and license for water-power projects, principally those in Oregon, Washington, Idaho, Montana, and Alaska; makes special studies relating to undeveloped water-power resources as directed by the chief engineer.

Ralph R. Randell, senior engineer, \$5,000 per annum.

Investigates applications for preliminary permit and license for water-power projects, especially those in the State of California; reviews engineering reports submitted by cooperating agencies; and makes special engineering studies as directed by the chief engineer.

ACCOUNTING

W. V. King, chief accountant, \$7,500 per annum.

Acts as technical consultant to the Commission in accounting and related matters and, under its general direction and supervision, prepares systems of accounts, forms of annual reports, statements, etc., for use of and observance by licensees under the Federal Water Power Act; directs and supervises the staff of auditors engaged in conducting audits of and reports upon the accounts and records of licensees relating to investment in licensed projects, their gross earnings, operating expenses, depreciation, taxes, net earnings, etc.; and in general directs and supervises the activities of the accounting division having to do chiefly with the administration of the "net investment" features of the act.

LEGAL

Oswald Ryan, general counsel, \$8,000 per annum.

Principal legal adviser to the Commission.

James F. Lawson, assistant general counsel, \$5,400 per annum.

Advises upon legal questions arising in administration, determines sufficiency of applicants' compliance with State laws, scrutinizes forms of licenses and other legal instruments, briefs legal questions to be decided by the Commission or presented to the courts in connection with the issue, denial, transfer, or revocation of licenses.

H. B. Teegarden, solicitor, \$7,500 per annum.

Conducts hearings, conferences, investigations, and negotiations before and on behalf of the Commission for the determination of facts pertinent to net investment in licensed projects.

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